

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TIMOTHY C. HARRY and
KAREN C. HARRY

Plaintiffs,

v.

AMERICAN BROKERS CONDUIT; et al.

Defendants.

Case No. 16-cv-10895-FDS

MOTION FOR ENTRY OF DEFAULT JUDGMENT

NOW COMES Plaintiffs Timothy C. Harry and Karen C. Harry by and through their undersigned counsel respectfully requesting for an Entry of Default Judgment against Defendant American Brokers Conduit; the complaint in this matter was filed in Barnstable County Superior Court on March 18, 2016 and removed to the United States District Court on May 17, 2016 by Deutsche Bank National Trust Company as Trustee for American Home Mortgage Asset Trust 2007-2 Mortgage-Backed Pass-Through Certificates, Series 2007-2, Homeward Residential, Inc, Mortgage Electronic Registration Systems, Inc. and Ocwen Loan Servicing, LLC; Defendant American Brokers Conduit was served with the Complaint on April 27, 2016 with the Massachusetts Secretary of State's Process Servicing Section at 1 Ashburton Place, Boston, MA; Patricia Harney of the Massachusetts Secretary of State's Processing Servicing Section forwarded the Complaint and Summons to the last known address of the Defendant on April 28, 2016; Defendant American Brokers Conduit, pursuant to Civil Rule 12 (a) (1)(A)(i) which states a Defendant must serve an answer within 21 days after being served with the summons and complaint, did not enter any pleadings or an appearance as required by May 25, 2016; Defendant

has not retained counsel nor issued pleadings; Plaintiffs moved for a Default Judgment against the Defendant on June 13, 2016; Notice of Default Judgment was issued by this Honorable Court on June 28, 2016; Defendants Complaint and Summons were returned to this court on July 5, 2016 having not been forwarded to any address; no proceedings have been taken by the Defendant since the default was entered; Defendant was not in military service and is not an infant or incompetent as appears in the declaration of Tina L. Sherwood submitted herewith.

Wherefore, Plaintiffs move that this Honorable Court make and enter a judgment of having the alleged note issued by the Defendant American Brokers Conduit marked cancelled and returned to the Plaintiffs and enter a judgment for \$11,906,459.

Dated this 17th day of August, 2018.

By Plaintiffs' Attorney

/s/ Tina L. Sherwood

Tina L. Sherwood BBO# 662047

17 Main ST

Hopkinton, MA 01748

(617) 930-3533

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 17th day of August, 2018, before me, the undersigned notary public, personally appeared TINA L. SHERWOOD, proved to me through satisfactory evidence of identification, which was her driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

/s/ Jacquelyn M. Brogan

Notary Public: Jacquelyn M. Brogan

My Commission Expires: 1/6/2023

Dated:

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TIMOTHY C. HARRY and
KAREN C. HARRY

Plaintiffs,

v.

AMERICAN BROKERS CONDUIT; et al.

Defendants.

Case No. 16-cv-10895-FDS

AFFIDAVIT IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT

1. I am duly licensed to practice law in Massachusetts.
2. I am the Attorney for the Plaintiffs in the above entitled action and I am familiar with the file, records and pleadings in this matter.
3. The Verified Complaint was filed on March 18, 2016 with the Barnstable County Superior Court.
4. Plaintiffs served the Verified Complaint and Summons on the Defendant American Brokers Conduit on April 27, 2016 with the Massachusetts Secretary of State's office Process Servicing, Patricia Harney at 1 Ashburton Place, Boston, MA.
5. Patricia Harney forwarded the Complaint and Summons to Defendants last known address that the Massachusetts Secretary of State's office could confirm.
6. On July 5, 2016, the Complaint and Summons was returned to the Barnstable County Superior Court who forwarded it to the Massachusetts District Court.
7. Plaintiffs complied with Rule 4(c) of the Massachusetts Rules of Civil Procedure.

8. This matter was removed to United States District Court on April 21, 2016 by Deutsche Bank National Trust Company as Trustee for American Home Mortgage Asset Trust 2007-2 Mortgage-Backed Pass-Through Certificates, Series 2007-2, Homeward Residential, Inc, Mortgage Electronic Registration Systems, Inc. and Ocwen Loan Servicing, LLC;
9. An answer to the complaint was due on May 25, 2016.
10. Defendant American Brokers Conduit has failed to appear, plead or otherwise defend within the time allowed and, therefore, is now in default.
11. Plaintiffs, filed a Motion for Default Judgment against Defendants American Brokers Conduit on June 13, 2016
12. The Clerk of Court entered a default against the Defendant American Brokers Conduit on June 28, 2016.
13. As established in the Complaint, Plaintiff is entitled to damages in the amount of \$11,898,126 plus interest as well as the note cancelled and returned to Plaintiffs.
14. As more fully set forth in the complaint, the damages being sought breaks down as follows: RICO violations of \$1,500,000, M.G.L. c. 266 Section 35A violation of \$500,000, 18 U.S.C. Section 1014 violations \$1,000,000 for fraudulently writing a note and \$8,898,126 for every number that was fraudulently stated on the false loan application, TIL, GFE and HUD statements.
15. Plaintiff is entitled to recover statutory attorney fees in the amount of \$20,000 from Defendant.

16. The Defendant is not in the military, is not an infant and is not incompetent.

Dated this 17th day of August, 2018

Timothy C. Harry and Gretchen C. Harry
By Their Attorney

/s/ Tina L. Sherwood
Tina L. Sherwood
BBO # 662047
17 Main ST
Hopkinton, MA 01748
(617) 930-3533

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 17th day of August, 2018, before me, the undersigned notary public, personally appeared TINA L. SHERWOOD, proved to me through satisfactory evidence of identification, which was her driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

/s/ Jacquelyn M. Brogan
Notary Public: Jacquelyn M. Brogan
My Commission Expires: 1/6/2023